

BEFORE THE
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for
Modification/Termination of Probation of:

WILLIAM VILLARINO,

Petitioner.

OAH No. 201410563

DECISION

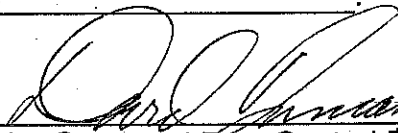
The Proposed Decision of Linda A. Cabatic, Administrative Law Judge, in Sacramento, is attached hereto. Said decision is hereby amended, pursuant to Government Code section 11517(c) (2) (c) to correct technical or minor changes that do not affect the factual or legal basis of the proposed decision. The proposed decision is amended as follows:

1. On page 1, under FACTUAL FINDINGS, paragraph 1, "December 6, 2006" is stricken and replaced with "October 6, 2006".
2. On page 3, paragraph 9, "Allen and Sons" is stricken and replaced with "Al & Sons Termite and Pest Control, Inc.".
3. On page 3, under LEGAL CONCLUSIONS, paragraph 1, line 2, "or reduction of penalty" is inserted after reinstatement.

The Proposed Decision as amended is hereby accepted and adopted as the Decision and Order by the Structural Pest Control Board, Department of Consumer Affairs, State of California.

The Decision shall become effective on April 12, 2014.

IT IS SO ORDERED March 13, 2014



For the Structural Pest Control Board
Department of Consumer Affairs

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DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for
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OAH No. 201410563

WILLIAM VILLARINO,

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DECISION

This case was heard before a quorum of the Structural Pest Control Board (board), comprised of Dave Tamayo, President; Curtis Good; Clifford Utley; Naresh Duggal; Marisa Quiroz; and Mike Duran, in Sacramento, California on January 23, 2014. Linda A. Cabatic, Administrative Law Judge, State of California, Office of Administrative Hearings, presided.

Langston M. Edwards, Deputy Attorney General represented the Attorney General of California and appeared pursuant to Government Code section 11522.

Petitioner William Villarino appeared and represented himself.

Evidence was received and the matter was submitted for decision on January 23, 2014.

FACTUAL FINDINGS

1. On December 6, 2006, the board issued Applicator License No. RA 46455 in Branch 2 and 3 to petitioner. On September 22, 2009, Applicator License No. RA 46544 was downgraded to a Branch 3, due to the issuance of a Branch 2 Field Representative License. The board issued Field Representative's License No. FR 44780 in Branch 2 to petitioner.

2. On August 11, 2011, the board issued an Accusation against petitioner which alleged that on January 18, 2011, petitioner plead guilty to a felony in violation of Health and Safety Code section 11366 (sale/distribution of controlled substance.) In connection with his criminal conviction, petitioner was sentenced to three years of

formal probation, ordered to serve 120 days in jail, submit to controlled substance testing and to participate in a counseling program. Petitioner's conviction is based upon the fact that on September 25, 2010, while attending the National Orange Show in San Bernardino, California, petitioner attempted to sell DEA agents controlled substances. He offered a "sample" to one of the agents and was subsequently arrested.

3. On October 5, 2011, petitioner entered into a Stipulated Settlement and Disciplinary Order in which he admitted the truth of each and every charge and allegation contained in the Accusation. In exchange for petitioner's admissions and stipulations, the board adopted the Stipulated Settlement and Disciplinary Order as its Decision and Order (decision) on December 9, 2011, effective January 8, 2012. The board revoked petitioner's Field Representative's License No. FR 44780 and Applicator License No. RA 46455, stayed the revocation and placed petitioner's licenses on probation for three years subject to specified terms and conditions, including submitting to random biological fluid or hair, breath, alcohol or any other mode of testing required by the board.

4. On August 26, 2013, a certified letter was sent to petitioner from Melissa Sowers-Roberts, Disciplinary Action Analyst for the board. The letter was sent to petitioner's address in Los Angeles, California. In that letter, petitioner was advised the board's decision required him to submit to random drug testing. She further advised he was to have the test(s) performed at his expense within twelve (12) hours upon request by the board at a board approved laboratory. She also advised petitioner that failure to comply with any part of the conditions of probation will result in the board taking action to revoke his probation. Petitioner did not submit to a random drug test.

5. On October 1, 2013, petitioner completed a Request for Change of Address form, which advised the board of his new address in Torrance, California. He also submitted a declaration stating he recently went through a divorce and moved to his mother's home in Torrance, California. He stated he recently changed his address with the Department of Motor Vehicles and the board, which explained why he did not receive the letter regarding the drug test. He stated he gave this information to Donald Graves, a Specialist for the board.

6. On October 1, 2013, petitioner submitted his Petition for Modification/Termination of Probation. Petitioner advised he has completed his criminal probation and has paid all fines and fees associated with this probation. Petitioner admitted he made a terrible choice in judgment and the choice has dramatically affected his life. He stated he has "completed everything asked of me from the structural pest control board. My quarterly reports and inspection fees are in good standing. I want to clear my name and this is why I feel my probation should be terminated early."

7. On October 10, 2013, Ms. Sowers-Roberts sent a warning letter to petitioner, this time to his Torrance address, that advised petitioner of his obligation under the decision to complete the random drug test, which he had yet to complete. Ms. Sowers-Roberts advised that in addition to sending the August 26, 2013 letter by way of certified mail, the same letter was also emailed to petitioner on September 4, 2013 at his email address on record with the board. She advised that as of the date of the letter, the board had not received the results or verification that the random drug test was completed. Ms. Sowers-Roberts advised petitioner that failure to comply within the time frame specified will be considered an admission of a positive drug screen and constitute a violation of probation.

8. Petitioner's criminal conviction was expunged pursuant to Penal Code section 1203.4.

9. At the hearing, petitioner stated he is not employed. He terminated his employment with Allen and Sons because of a difference in training and a clash with his new manager's approach.

10. Petitioner has not completed any random drug testing. Petitioner advised the board that he spoke to Mr. Graves and no mention was made of any drug testing. Petitioner's testimony was not credible. Petitioner also acknowledged that he knew about the ten day requirement for advising the board of a change of address.

LEGAL CONCLUSIONS

1. Government Code section 11522 provides that a person whose license has been revoked may petition the board for reinstatement after a period of not less than one year has elapsed from the effective date of the decision. Petitioner bears the burden of establishing his fitness for reinstatement of his revoked license. (Evid. Code, § 500.)

2. As set forth in Factual Findings 3 through 7 and 9 and 10, petitioner has not met his burden of establishing rehabilitation, in that he has failed to fully comply with the conditions of probation. Accordingly, cause exists to deny petitioner's Petition for Modification/Termination of Probation.

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ORDER

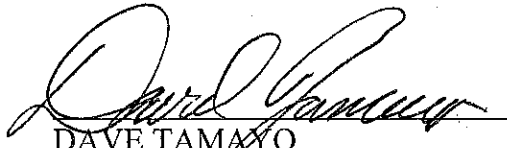
Petitioner William R. Villarino's Petition for Modification/Termination of

Probation is hereby DENIED.

This Decision shall become effective on the 12 day of April,
2014.

IT IS SO ORDERED.

Dated: March 13, 2014


DAVE TAMAYO
President
Structural Pest Control Board
Department of Consumer Affairs